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## T3.1.8 Procurement Integrity Act Revised 7/2006

### A Procurement Integrity Act

### 1 Applicability Revised 10/2014

As provided by 49 U.S.C. § 40110(d)(3), FAA is subject to the Procurement Integrity Act (the Act), 41 U.S.C. §§ 2101-2107. Sections 2101, "Definitions," and 2106, "Reporting information believed to constitute evidence of offense," however, do not apply to FAA. Congress directed the FAA to adopt its own definitions in lieu of the definitions in § 2101 of the Act, consistent with the intent of AMS and the Act. By memorandum dated July 14, 2000, the Administrator approved FAAs definitions. The FAA-specific definitions in this Procurement Guidance are to be substituted for §§ 2101 and 2106.

### 2 FAA-Specific Definitions Revised 10/2014

*Under AMS, FAA-specific definitions are to be substituted for Procurement Integrity Act §§2101, "Definitions," and 2106, "Reporting information believed to constitute evidence of offense."*

**FAA Definitions as Used in 41 U.S.C. §§ 2101-2107**

(1) The term "contractor bid or proposal information" means any of the following information submitted to FAA as part of or in connection with a Screening Information Request (SIR) or an unsolicited proposal, to enter into an FAA procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in Appendix C of the

AMS). (B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor in accordance with (1) AMS Clause 3.2.2.3-16, "Restricting, Disclosing and Using Data," or (2) other applicable law and regulation.

(2) The term "source selection information" means any of the following information prepared for use by the FAA for the purpose of evaluating documentation, information, presentations, proposals, or binding offers which an offeror submits in response to a Screening Information Request (SIR), or in an unsolicited proposal, to enter into an FAA procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(A) Proposed costs or prices submitted in response to a FAA SIR, or lists of those proposed costs or prices.

(B) Source selection plans.

(C) Technical evaluation plans.

(D) Technical evaluations of responses to SIRs or unsolicited proposals.

(E) Cost or price evaluation plans.

(F) Cost or price evaluations of responses to SIRs or unsolicited proposals.

(G) Down select determinations identifying SIR responses that are most likely to receive contract award.

(H) Any ranking of offerors developed by the FAA during the source selection process.

(I) The reports, evaluations and recommendations of source selection panels, boards, or advisory councils.

(J) Other information based on a case- by-case determination made by the FAA Acquisition Executive*, his or her designee, or the Product or Service Team**, that its disclosure would jeopardize the integrity or successful completion of the FAA procurement to which the information relates.

In addition, all source selection information should be clearly marked as such on the cover and throughout each individual document.

(3) The term "Federal agency" means the FAA.

(4) The term "Federal agency procurement" means the acquisition (by using competitive or non- competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by the FAA using appropriated funds.

(5) The term "contracting officer" means a person who, by appointment in accordance with FAA policy, has the authority to enter into a FAA contract on behalf of the Government and to make determinations and findings with respect to such contract.

(6) The term "protest" means a written objection by an interested party to the award or proposed award of a FAA procurement contract.

(7) The term "official" means the following:

(A) An employee of the FAA, as defined in the FAA's Personnel Management System.

(B) An officer (as defined in 5 U.S.C. § 2104) of any non-FAA Federal agency (as Federal agency is defined in 40 U.S.C. § 102(5)).

(C) An employee (as defined in 5 U.S.C. § 2105) of any non-FAA Federal

agency (as Federal agency is defined in 40 U.S.C. §102(5)).

(D) A member of the uniformed services (as defined in 5 U.S.C. § 2101(3)).

(8) The term "other applicable law or regulation" as used at 41 U.S.C. § 2105(c)(1)(D), includes the FAA Personnel Management System.

(9) The term "Comptroller General of the United States," as used at 41 U.S.C. §§ 2106 and 2107(5) and (6), means the FAA Office of Dispute Resolution for Acquisition.

(10) The term "program manager" as used at 41 U.S.C. § 2104(a)(2), includes a FAA Product or Service Team** Lead or Acting Lead.

(11) The term "deputy program manager" as used at 41 U.S.C. § 2104(a)(2) includes a Deputy or Acting Deputy to an FAA Product or Service Team** Lead.

(12) The term "Federal Acquisition Regulation" as used at 41 U.S.C. § 2105(c)(1)(C) means the FAA AMS.

*The July 14, 2000, memo approving FAA definitions used "Associate Administrator for Research and Acquisitions." Due to organizational changes in 2006, this position was abolished. The FAA Acquisition Executive is an equivalent position.

**The July 14, 2000, memo approving FAA definitions used the term "Integrated Product Team." Due to organizational changes, this term was not used after 2006. Product or Service Team is an equivalent structure.

## 3 Full Text of Procurement Integrity Act, 41 U.S.C §§ 2101-2107 Revised 10/2014

*Below is the full text of the Procurement Integrity Act, 41 U.S.C. §§ 2101-2107 (omitting only its §§ 2101 and 2106, which are not applicable to FAA). This Act, as it applies to the FAA, is to be read in conjunction with the FAA Procurement Integrity Act definitions (which are also shown in this Procurement Guidance Section). Please take special notice of 41 U.S.C. § 2107 below, which contains "savings provisions," or situations where the Procurement Integrity Act does **not** apply.*

**Procurement Integrity Act, 41 U.S.C. §§ 2101-2107**

**§ 2101. Definitions**

[Omitted]

**§ 2102. Prohibitions on disclosing and obtaining procurement information**

(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—

(1) IN GENERAL.—Except as provided by law, a person described

in paragraph (3) shall not knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(2) EMPLOYEE OF PRIVATE SECTOR ORGANIZATION.—In addition to the restriction in paragraph (1), an employee of a private sector organization assigned to an agency under chapter 37 of title 5 shall not knowingly disclose contractor bid or proposal information or source selection information during the 3-year period after the employee's assignment ends, except as provided by law.

(3) APPLICATION.—Paragraph (1) applies to a person that—

(A) (i) is a present or former official of the Federal Government; or

(ii) is acting or has acted for or on behalf of, or who is advising or has advised the Federal Government with respect to, a Federal agency procurement; and

(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—Except as provided by law, a person shall not knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

**§ 2103. Actions required of procurement officers when contacted regarding non-Federal employment**

(a) ACTIONS REQUIRED.—An agency official participating personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold who contacts or is contacted by a person that is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official shall—

(1) promptly report the contact in writing to the official's supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employed; and

(2) (A) reject the possibility of non-Federal employment; or

(B) disqualify himself or herself from further personal and substantial participation in that Federal agency procurement until the agency authorizes the official to resume participation in the procurement, in accordance with the requirements of section 208 of title 18 and applicable agency regulations on the grounds that—

(i) the person is no longer a bidder or offeror in that Federal agency procurement; or

(ii) all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

(b) RETENTION OF REPORTS.—The agency shall retain each report required by this section for not less than 2 years following the submission of the report. The reports shall be made available to the public on request, except that any part of a report that is exempt from the disclosure requirements of section 552 of title 5 under subsection (b)(1) of that section may be withheld from disclosure to the public.

(c) PERSONS SUBJECT TO PENALTIES.—The following are subject to the penalties and administrative actions set forth in section 2105 of this title:

(1) An official who knowingly fails to comply with the requirements of this section.

(2) A bidder or offeror that engages in employment discussions with an official who is subject to the restrictions of this section, knowing that the official has not complied with paragraph (1) or (2) of subsection (a).

**§ 2104. Prohibition on former official's acceptance of compensation from contractor**

(a) PROHIBITION.—A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within one year after the official—

(1) served, when the contractor was selected or awarded a contract,

as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of $10,000,000;

(2) served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10,000,000 awarded to that contractor; or

(3) personally made for the Federal agency a decision to—

(A) award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10,000,000 to that contractor;

(B) establish overhead or other rates applicable to one or more contracts for that contractor that are valued in excess of $10,000,000;

(C) approve issuance of one or more contract payments in excess of $10,000,000 to that contractor; or

(D) pay or settle a claim in excess of $10,000,000 with that contractor.

(b) WHEN COMPENSATION MAY BE ACCEPTED.—Subsection (a) does not prohibit a former official of a Federal agency from accepting compensation from a division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract referred to in paragraph (1), (2), or (3) of subsection (a).

(c) IMPLEMENTING REGULATIONS.—Regulations implementing this section shall include procedures for an official or former official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether the official or former official is or would be precluded by this section from accepting compensation from a particular contractor.

(d) PERSONS SUBJECT TO PENALTIES.—The following are subject to the penalties and administrative actions set forth in section 2105 of this title:

(1) A former official who knowingly accepts compensation in violation of this section.

(2) A contractor that provides compensation to a former official knowing that the official accepts the compensation in violation of

this section.

**§ 2105. Penalties and administrative actions**

(a) CRIMINAL PENALTIES.—A person that violates section 2102 of this title to exchange information covered by section 2102 of this title for anything of value or to obtain or give a person a competitive advantage in the award of a Federal agency procurement contract shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) CIVIL PENALTIES.—The Attorney General may bring a civil action in an appropriate district court of the United States against a person that engages in conduct that violates section 2102, 2103, or 2104 of this title. On proof of that conduct by a preponderance of the evidence—

(1) an individual is liable to the Federal Government for a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct; and

(2) an organization is liable to the Federal Government for a civil penalty of not more than $500,000 for each violation plus twice the amount of compensation that the organization received or offered for the prohibited conduct.

(c) ADMINISTRATIVE ACTIONS.—

(1) TYPES OF ACTION THAT FEDERAL AGENCY MAY TAKE.—A Federal agency that receives information that a contractor or a person has violated section 2102, 2103, or 2104 of this title shall consider taking one or more of the following actions, as appropriate:

(A) Canceling the Federal agency procurement, if a contract has not yet been awarded.

(B) Rescinding a contract with respect to which—

(i) the contractor or someone acting for the contractor has been convicted for an offense punishable under subsection (a); or

(ii) the head of the agency that awarded the contract has determined, based on a preponderance of the evidence, that

the contractor or a person acting for the contractor has engaged in conduct constituting the offense.

(C) Initiating a suspension or debarment proceeding for the protection of the Federal Government in accordance with procedures in the Federal Acquisition Regulation.

(D) Initiating an adverse personnel action, pursuant to the procedures in chapter 75 of title 5 or other applicable law or regulation.

(2) AMOUNT GOVERNMENT ENTITLED TO RECOVER.—When a Federal agency rescinds a contract pursuant to paragraph (1)(B), the Federal Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(3) PRESENT RESPONSIBILITY AFFECTED BY CONDUCT.—For purposes of a suspension or debarment proceeding initiated pursuant to paragraph (1)(C), engaging in conduct constituting an offense under section 2102, 2103, or 2104 of this title affects the present responsibility of a Federal Government contractor or subcontractor.

**§ 2106. Reporting information believed to constitute evidence of offense**

[Omitted]

**§ 2107. Savings provisions**

This chapter does not—

(1) restrict the disclosure of information to, or its receipt by, a person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

(4) prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal

agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

(6) authorize the withholding of information from, nor restrict its receipt by, the Comptroller General in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

(7) limit the applicability of a requirement, sanction, contract penalty, or remedy established under another law or regulation.

**B Clauses**

view contract clauses

**C Forms** **Revised 10/2010**

view procurement forms

**D Appendix** **Added 10/2010**

**1 Administrator's Approval of FAA Procurement Integrity Act Definitions** **Added 10/2010**

U.S. Department of Transportation
**Federal Aviation Administration**

# Memorandum

Subject: **ACTION:** Procurement Integrity Act Definitions

Date: JUL 12 2000

From: Associate Administrator for Research and Acquisitions

Reply to Attn. of:

To: The Administrator

Attached for your approval are definitions applicable to the Procurement Integrity Act (the Act). These definitions are to be read in conjunction with the Act at 41 U.S.C. § 423. These definitions have been tailored to FAA's Acquisition Management System (AMS).

The formulation of AMS specific definitions fulfills a requirement placed upon the Administrator by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 106-181, approved April 5, 2000.

These definitions shall be effective upon your approval, and shall be incorporated into FAA's AMS.

Steven Zaidman

Attachment

APPROVED: Jane F. Garvey
Jane F. Garvey
Administrator

JUL 14 2000
Date

DISAPPROVED: _____

LET's DISCUSS: _____

**1. Background**.

As provided by 49 United States Code (U.S.C.) Section 40122(g)(3), effective October 1, 1999, the Federal Aviation Administration (FAA) is subject to the Procurement Integrity Act (the Act) (41 U.S.C. Section 423). However, Subsections (f), Definitions, and (g), Limitations on Protests, both in Section 423, do not apply to the FAA. In lieu of the definitions contained in the Subsection (f) of the Act, the FAA Administrator was directed by Congress to adopt its own definitions, consistent with the intent of the FAA's Acquisition Management System (AMS) and the Act. These definitions are provided below. (The full text of the Procurement Integrity Act is shown in the following pages.)

**2. Definitions.**

**As used in 41 U.S.C. Section 423:**

(1) The term "contractor bid or proposal information" means any of the following information submitted to FAA as part of or in connection with a Screening Information Request (SIR) or an unsolicited proposal, to enter into an FAA procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in Appendix C of the

AMS). (B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor in accordance with (1) AMS Clause 3.2.2.3-16, "Restriction on Disclosure and Use of Data," or (2) other applicable law and regulation.

(2) The term "source selection information" means any of the following information prepared for use by the FAA for the purpose of evaluating documentation, information, presentations, proposals, or binding offers which an offeror submits in response to a Screening Information Request (SIR), or in an unsolicited proposal, to enter into an FAA procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(A) Proposed costs or prices submitted in response to a FAA SIR, or lists of those proposed costs or prices.

(B) Source selection plans.

(C) Technical evaluation plans.

(D) Technical evaluations of responses to SIRs or unsolicited

proposals. (E) Cost or price evaluation plans.

(F) Cost or price evaluations of responses to SIRs or unsolicited proposals.

(G) Down select determinations identifying SIR responses that are most likely to receive contract award.

(H) Any ranking of offerors developed by the FAA during the source selection process.

(I) The reports, evaluations and recommendations of source selection panels, boards, or advisory councils.

(J) Other information based on a case- by-case determination made by the FAA Associate Administrator for Research and Acquisition, his or her designee, or the Integrated Product Team, that its disclosure would jeopardize the integrity or successful completion of the FAA procurement to which the information relates.

In addition, all source selection information should be clearly marked as such on the cover and throughout each individual document.

(3) The term "Federal agency" means the FAA.

(4) The term "Federal agency procurement" means the acquisition (by using competitive or non- competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by the FAA using appropriated funds.

(5) The term "contracting officer" means a person who, by appointment in accordance with FAA policy, has the authority to enter into a FAA contract on behalf of the Government and to make determinations and findings with respect to such contract.

(6) The term "protest" means a written objection by an interested party to the award or proposed award of a FAA procurement contract.

(7) The term "official" means the following:

(A) An employee of the FAA, as defined in the FAA's Personnel Management System.

(B) An officer (as defined in 5 U.S.C. Section 2104) of any non-FAA federal agency (as federal agency is defined in 40 U.S.C. Section 472).

(C) An employee (as defined in 5 U.S.C. Section 2105) of any non-FAA federal agency (as federal agency is defined in 40 U.S.C. Section 472).

(D) A member of the uniformed services, as defined in 5 U.S.C. Section 2101(3).

(8) The term "other applicable law or regulation" as used at 41 U.S.C. Section 423(e)(3)(A)(iv), includes the FAA Personnel Management System.

(9) The term "Comptroller General of the United States", as used at 41 U.S.C. Section 423(h)(6), means the FAA Office of Dispute Resolution for Acquisition.

(10) The term "program manager" as used at 41 U.S.C. Section 423(d)(1)(B), includes a FAA Integrated Product Team (IPT) Lead or Acting Lead, or a Product Team (PT) Lead or Acting Lead.

(11) The term "deputy program manager" as used at 41 U.S.C. Section 423(d)(1)(B), includes a Deputy or Acting Deputy to an FAA IPT Lead, or a Deputy or Acting Deputy to a PT Lead.

(12) The term "Federal Acquisition Regulation" as used at 41 U.S.C. Section 423(e)(3)(A)(iii), means the FAA AMS.

## 3. <u>Full Text of the Procurement Integrity Act, 49 U.S.C. Section 423</u>.

*Below is the full text of the Procurement Integrity Act, 49 U.S.C. Section 423 (omitting only its Subsections (f) and (g), which are not applicable to FAA). This Act, as it applies to the FAA, is to be read in conjunction with the FAA Procurement Integrity Act definitions.*

**§ 423. Restrictions on disclosing and obtaining contractor bid or proposal information or source selection information**

(a) Prohibition on disclosing procurement information.

(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(2) Paragraph (1) applies to any person who -

(A) is a present or former official of the United States, or a person who is acting or has acted for or on behalf of , or who is advising or has advised the United States with respect to, a Federal agency procurement; and

(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

(b) Prohibition on obtaining procurement information. A person shall not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(c) Actions required of procurement officers when contacted by offerors regarding non-Federal employment.

(1) If an agency official who is participating personally and substantially in a Federal agency in a Federal agency procurement for a contract in excess of the simplified acquisition threshold contracts or is contacted by a person who is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official, the official shall -

(A) promptly report the contract in writing to the official's supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employee; and

(B) (i) reject the possibility of non-Federal employment; or

(ii) disqualify himself or herself from further personal and substantial participation in that Federal agency procurement until such time as the agency has authorized the official to resume participation in such procurement, in accordance with the requirements of section 208 of title 18, United States Code, and applicable agency regulations on the grounds that --

(I) the person is no longer a bidder or offeror in that Federal agency procurement; or

(II) all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

(2) Each report required by this subsection shall be retained by the agency for not less that two years following the submission of the report. All such §reports shall be made available to the public upon request, except that any part of a report that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public.

(3) An official who knowingly fails to comply with the requirements of this subsection shall be subject to the penalties and administrative actions set forth in subsection (e).

(4) A bidder or offeror who engages in employment discussions with an official who is subject to the restrictions of this subsection, knowing that the official has not complied with subparagraph (A) or (B) of paragraph (1), shall be subject to the penalties and administrative actions set forth
in subsection (e).

d) Prohibition on former official's acceptance of compensation from contractor.

(1) A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within a period of one year after such former official—

(A) served, at the time of selection of the contractor or the award of a contract to that contractor, as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of $10,000,000;

(B) served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10,000,000 awarded to that contractor; or

(C) personally made for the Federal agency—

(i) a decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10,000,000 to that contractor;

(ii) a decision to establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of $10,000,000;

(iii) a decision to approve issuance of a contract payment or payments in excess of $10,000,000 to that contractor; or

(iv) a decision to pay or settle a claim in excess of $10,000,000 with that contractor.

(2) Nothing in paragraph (1) may be construed to prohibit a former official of a Federal agency from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract referred to in subparagraph (A), (B), or (C) of such paragraph.

(3) A former official who knowingly accepts compensation in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

(4) A contractor who provides compensation to a former official knowing that such compensation is accepted by the former official in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

(5) Regulations implementing this subsection shall include procedures for an official or former official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether the official or former official is or would be precluded by this subsection from accepting compensation from a particular contractor.

(e) Penalties and administrative actions.

(1) Criminal penalties. Whoever engages in conduct constituting a violation of subsection (a) or (b) for the purpose of either—

(A) exchanging the information covered by such subsection for anything of value, or

(B) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract, shall be imprisoned for not more than 5 years or fined as provided under title 18, United States Code, or both.

(2) Civil penalties. The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting a violation of subsection
(a), (b), (c), or (d). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty of not more that $50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more that $500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

(3) Administrative actions.

(A) If a Federal agency receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d), the Federal agency shall consider taking one or more of the following actions, as appropriate:

(i) Cancellation of the Federal agency procurement, if a contract has not yet been

awarded. (ii) Rescission of a contract with respect to which -

(I) the contractor or someone acting for the contractor has been convicted for an offense punishable under paragraph (1), or

(II) the head of the agency that awarded the contract has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

(iii) Initiation of suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation.

(iv) Initiation of adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code [5 USCS §§ 7501 et seq.], or other applicable law or regulation.

(B) If a Federal agency rescinds a contract pursuant to subparagraph (A) (ii), the United States is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(C) For purposes of any suspension or debarment proceedings initiated pursuant to subparagraph (A) (iii), engaging in conduct constituting an offense under subsection (a), (b), (c), or (d) affects the present responsibility of a Government contractor or subcontractor.

(h) Savings provisions. This section does not -

(1) restrict the disclosure of information to, or its receipt by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

(4) prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

(6) authorize the withholding of information from, nor restrict its receipt by, the Comptroller General of the United States in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

(7) limit the applicability of any requirements, sanctions, contract; or penalties, and remedies established under any other law or regulation.